FILED
JUL - 7 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY Ed DEPUTY

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Attorneys for Plaintiff,

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

STEPHANIE KOCH Plaintiff, vs. GC SERVICES, LP Defendant.	**Case No.:** '08 CV 1223 JAH RBB **VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL** **(Unlawful Debt Collection Practices)**

COMPLAINT

COMES NOW the Plaintiff, STEPHANIE KOCH ("Plaintiff"), by and through her attorneys, KROHN & MOSS, LTD., and for Plaintiff's Complaint against Defendant, GC SERVICES, LP, alleges and affirmatively states as follows:

INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.* (hereinafter "FDCPA"), to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to

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promote consistent State action to protect consumers against debt collection abuses. (15 U.S.C. 1692(a) – (e)).

2. The California legislature has determined that the banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts and that unfair or deceptive collection practices undermine the public confidence that is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers. The Legislature has further determined that there is a need to ensure that debt collectors exercise this responsibility with fairness, honesty and due regard for the debtor's rights and that debt collectors must be prohibited from engaging in unfair or deceptive acts or practices. (Cal. Civ. Code §1788.1(a) – (b)).

3. Plaintiff, through Plaintiff's attorneys, brings this action to challenge the actions of GC SERVICES, LP (hereinafter "Defendant") with regard to attempts by Defendant, a debt collector, to unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.

4. For the purposes of this Petition, unless otherwise indicated, "Defendant" includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers of Defendant named in this caption.

JURISDICTION AND VENUE

5. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy" and 28 U.S.C. 1367 grants this court supplemental jurisdiction over the state claims contained therein.

6. Because Defendant maintains a business office and conducts business in the state of California, personal jurisdiction is established.

7. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

8. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

9. Plaintiff is a natural person who resides in the City of Carter Lake, County of Pottawattamie, State of Iowas and is obligated or allegedly obligated to pay a debt and is a "consumer" as that term is defined by 15 U.S.C. 1692a(3).

10. Plaintiff is a natural person from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from Plaintiff and is a "debtor" as that term is defined by California Civil Code § 1788.2(h).

11. Plaintiff is informed and believes, and thereon alleges, that Defendant is a national company with a business office in the City of San Diego, County of San Diego, State of California.

12. Plaintiff is informed and believes, and thereon alleges, that Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

13. Plaintiff is informed and believes, and thereon alleges, that Defendant is not a firm of attorneys or counselors at law and is a company who, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection as that term is defined by California Civil Code § 1788.2(b), and is a "debt collector" as that term is defined by California Civil Code § 1788.2(c).

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FACTUAL ALLEGATIONS

14. Sometime before September of 2006, Plaintiff engaged in business with Sprint.

15. Sometime in October of 2007, GC Services, LP began placing continuous collection calls to Plaintiff demanding payment of the alleged debt originally owed to Sprint.

16. Plaintiff does not owe the alleged debt and has repeatedly informed Defendant as such.

17. Defendant failed to mail a written letter describing Plaintiff's rights with respect to the debt in controversy within 5 days after Defendant's initial communication with Plaintiff.

18. During this time, Defendant continued contacting Plaintiff through an excessive amount of collection calls.

18. Defendant, through its agents, employees and legal counsel, continuously failed to properly identify itself as a debt collector and failed to mention that all information sought would be used for that purpose. (See Exhibit A).

19. Defendant, through agents, employees and legal counsel, made profane and offensive statements when addressing Plaintiff on the telephone such as, "You're not perfect, you have to pay your bills, snap out of it." and "Do you come from a background where you don't have to pay your bills like every other American?" (See Exhibit A).

20. Defendant, through agents, employees and legal counsel, used misleading representations in its communications by continuously attempting to collect a debt not owed by Plaintiff.

21. Defendant, through agents, employees and legal counsel, continuously threatened Plaintiff with legal action, including filing a lawsuit. (See Exhibit A).

22. As of yet, no such lawsuit has been filed against Plaintiff.

23. On or about April 23, 2008, Plaintiff retained KROHN & MOSS, LTD., to be her legal representation in the present matter.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT, (FDCPA), 15 U.S.C. § 1692 et seq.

24. Plaintiff repeats, reallages and incorporates by reference all of the foregoing paragraphs.

25. Defendant **violated the FDCPA**. Defendant's violations include, but are not limited to the following:

a). Defendant violated the FDCPA § 1692d(2) when Defendant, through its agents, employees and legal counsel, used abusive, profane and offensive language when addressing Plaintiff.

b). Defendant violated the FDCPA § 1692e(2) when Defendant, through its agents and employees, attempted to collect a debt not owed to the Defendants by Plaintiff.

c). Defendant violated the FDCPA § 1692e(5) when Defendant, through its agents, employees and legal counsel, threatened Plaintiff with a lawsuit that was never filed.

d). Defendant violated the FDCPA § 1692e(11) when Defendant, through its agents, employees, failed to inform Plaintiff in each communication that Defendant is a debt collector and information sought would be used for such purposes.

e). Defendants violated FDCPA §1692g(a) when Defendant, through its agents, employees, and legal counsel, never mailed an official letter notifying Plaintiff of her rights with respect to the debt owed.

26. As a consequence of Defendant's foregoing actions, Plaintiff has suffered from stress, anxiety, and humiliation. (See Exhibit B).

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COUNT II

DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (RFDCPA), Cal. Civ. Code § 1788 et seq.

27. Plaintiff repeats, realleges and incorporates by reference all of the foregoing paragraphs.

28. Defendant **violated the RFDCPA**. Defendant's violations include, but are not limited to the following:

a). Defendant violated the RFDCPA § 1788.11(a) when Defendant, through its agents, employees and legal counsel, used profane language when communicating with Plaintiff.

b). Defendant violated the RFDCPA § 1788.11(b) when Defendant, through its agents, employees and legal counsel, failed to properly identify itself as a debt collector.

c). Defendant violated the RFDCPA § 1788.13(j) when Defendant, through its agents, employees and legal counsel, threatened Plaintiff with a lawsuit that was never filed.

d). Defendant violated the RFDCPA § 1788.17 when Defendant, through its agents and employees, continuously failed to comply with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692 *et seq*.

29. As a consequence of Defendant's foregoing actions, Plaintiff has suffered from stress, anxiety and humiliation. (See Exhibit).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

30. Declaratory judgment that the Defendant's conduct violated the State Act, RFDCPA, and Federal Act, FDCPA.

31. Actual damages.

32. Statutory damages pursuant to the State Act, Cal. Civ. Code § 1788.30(b).

33. Statutory damages pursuant to the Federal Act, 15 U.S.C. 1692k.

34. Costs and reasonable attorney's fees pursuant to the State Act, Cal. Civ Code § 1788.30(c) and the Federal Act, 15 U.S.C. 1692k.

35. Any other relief that this court deems to be just and proper.

RESPECTFULLY SUBMITTED,

DATED: June 26, 2008

KROHN & MOSS, LTD.

By: ______________________

Nicholas J. Bontrager
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, STEPHANIE KOCH, hereby demands trial by jury in this action.

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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF CALIFORNIA)

Plaintiff, STEPHANIE KOCH, says as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, STEPHANIE KOCH, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 6/24/08

STEPHANIE KOCH,
Plaintiff

EXHIBIT A

PLEASE NOTE:

Plaintiff's attorneys are in possession of a voice recording left by a collection agent for Defendant, which details and further establishes the allegations referring to this EXHIBIT A.

For purposes of practicality, said recording is not attached to this complaint but will be available if needed.

EXHIBIT B

DEBT COLLECTION DAMAGES SUFFERED

"Damages" are an element of your case which must be established. This form will help us determine and assess what is known as "actual damages". ***Please be honest*** in your answers. If you are being abused by debt collectors, the law presumes you have been damaged in some way and you are likely to recover for those damages. These answers, however, will affect ***additional damages***.

Do you feel you suffer from any of the following due to, or made worse by, the actions of abusive debt collection activities?

		Answer
1.	Sleeplessness	YES (NO)
2.	Fear of answering the telephone	(YES) NO
3.	Nervousness	YES (NO)
4.	Fear of answering the door	YES (NO)
5.	Embarrassment when speaking with family or friends	(YES) NO
6.	Depressions (sad, anxious, or "empty" moods)	YES (NO)
7.	Chest pains	YES (NO)
8.	Feelings of hopelessness, pessimism	YES (NO)
9.	Feelings of guilt, worthlessness, helplessness	YES (NO)
10.	Appetite and/or weight loss or overeating and weight gain	(YES) NO
11.	Thoughts of death, suicide or suicide attempts	YES (NO)
12.	Restlessness or irritability	(YES) NO
13.	Headache, nausea, chronic pain or fatigue	(YES) NO
14.	Negative impact on my job	(YES) NO
15.	Negative impact on my relationships	YES (NO)

Other physical or emotional symptoms you believe are associated with abusive debt collection activities:

Constant reminders from family members asking if my bills are paid etc.

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 6/26/08

Stephanie Koch
Signed Name

STEPHANIE KOCH
Printed Name

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

152805 - MB

July 09, 2008
11:36:38

Civ Fil Non-Pris
USAO #.: 08CV1223 CIVIL FILING
Judge..: JOHN A HOUSTON
Amount.: $100.00 CC

Total-> $350.00

FROM: STEPHANIE KOCH VS
GC SERVICES

USDC CIRCUIT #9- CAS
880 FRONT ST #4290
SAN DIEGO CA 92101
619-557-7349

BATCH: 388
S-A-L-E-S D-R-A-F-T
***** REPRINT *****
7
192626500310288

REF: 0001
CD TYPE: AMEX
TR TYPE: PURCHASE
DATE: JUL 09, 08 11:32:20

TOTAL $100.00*

ACCT: 4001 EXP: **/**
AP: 141222
**** IMPRINT CARD ****

CARDMEMBER ACKNOWLEDGES RECEIPT OF GOODS AND/OR SERVICES IN THE AMOUNT OF THE TOTAL SHOWN HEREON AND AGREES TO PERFORM THE OBLIGATIONS SET FORTH BY THE CARDMEMBER'S AGREEMENT WITH THE ISSUER

THANK YOU

CUSTOMER COPY

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED
08 JUL -7 AM 11:29
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: [signature] DEPUTY

I. (a) PLAINTIFFS
Stephanie Koch

(b) County of Residence of First Listed Plaintiff: Pottawattamie (IA)
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Krohn & Moss, Ltd. Nicholas J. Bontrager (323) 988-2400
5055 Wilshire Blvd, Suite 300 Los Angeles, CA 90036

DEFENDANTS
GC Services, LP

'08 CV 1223 JAH RBB

County of Residence of First Listed Defendant: San Diego
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☒ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
15 USC 1692 et seq.

Brief description of cause:
Unlawful and abusive debt collection practices

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☑ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______ DOCKET NUMBER ______

DATE: 06/30/2008

SIGNATURE OF ATTORNEY OF RECORD: [signature]

FOR OFFICE USE ONLY

RECEIPT # 152805 AMOUNT $350.00 APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

TB 07/09/08